

House File 2431

H-8149

1 Amend House File 2431 as follows:

2 1. Page 1, before line 1 by inserting:

3 <Section 1. Section 10A.104, subsection 11, Code 2022, is  
4 amended to read as follows:

5 11. Administer inspections and licensing of hotels and home  
6 ~~bakeries~~ food processing establishments.

7 Sec. \_\_\_\_\_. Section 137D.1, Code 2022, is amended to read as  
8 follows:

9 **137D.1 Definitions.**

10 As used in this chapter, unless the context otherwise  
11 requires:

12 1. ~~"Food" means any raw, cooked, or processed edible  
13 substance, ice, beverage, or ingredient used or intended for  
14 use or sale in whole or in part for human consumption.~~

15 2. ~~"Department" means the department of inspections and  
16 appeals.~~

17 1. "Department" means the department of inspections and  
18 appeals.

19 2. "Food" means any raw, cooked, or processed edible  
20 substance, ice, beverage, or ingredient used or intended for  
21 use or sale in whole or in part for human consumption.

22 3. "Home bakery food processing establishment" means a  
23 business on the premises of a residence in which ~~prepared~~  
24 homemade food is created items are produced for sale or  
25 resale, for consumption off the premises, if the business has  
26 gross annual sales ~~of prepared food~~ of less than ~~thirty-five~~  
27 fifty thousand dollars. However, "home bakery food processing  
28 establishment" does not include a residence in which food is  
29 prepared to be used or sold by churches, fraternal societies,  
30 charitable organizations, or civic organizations.

31 4. ~~"Prepared food" means soft pies, bakery products  
32 with a custard or cream filling, or baked goods that are a  
33 time/temperature control for safety food. "Prepared food" does  
34 not include baked goods that are not a time/temperature control  
35 for safety food, including but not limited to breads, fruit~~

1 ~~pies, cakes, or other pastries that are not a time/temperature~~  
2 ~~control for safety food.~~ "Homemade food item" means a food  
3 that is produced and, if packaged, packaged at a home food  
4 processing establishment. "Homemade food item" includes food  
5 that is not time/temperature control for safety food, but  
6 does not include such food if produced and sold under section  
7 137F.20. "Homemade food item" does not include unpasteurized  
8 fruit or vegetable juice, raw sprout seeds, foods containing  
9 game animals, fish or shellfish, alcoholic beverages,  
10 bottled water, packaged ice, consumable hemp products, food  
11 that will be further processed by a food processing plant,  
12 time/temperature control for safety food packaged using  
13 a reduced oxygen packaging method, milk or milk products  
14 regulated under chapter 192, and meat, meat food products,  
15 poultry, or poultry products regulated under chapter 189A,  
16 except for any of the following products when sold directly to  
17 the end consumer:

18 a. Poultry, poultry byproduct, or poultry food product  
19 if the producer raised the poultry pursuant to the exemption  
20 set forth in 9 C.F.R. §381.10(c)(1) limiting the producer to  
21 slaughtering not more than one thousand poultry during the  
22 calendar year.

23 b. Poultry, poultry byproduct, or poultry food product if  
24 the poultry is from an inspected source exempted pursuant to 9  
25 C.F.R. §381.10(d).

26 c. Meat, meat byproduct, or meat food product if the meat  
27 is from an inspected source exempted pursuant to 9 C.F.R.  
28 §303.1(d).

29 5. "Produce", with respect to preparing homemade food  
30 items, means to prepare a food item by cooking, baking,  
31 drying, mixing, cutting, fermenting, preserving, freezing,  
32 dehydrating, growing, raising, or other process. "Produce"  
33 does not include the preparation methods of low-acid canning,  
34 low-acid fermentation, acidification, curing, and smoking for  
35 preservation rather than flavor enhancement.

1     5. 6. "Time/temperature control for safety food" means a  
2 food that requires time and temperature controls for safety to  
3 limit pathogenic microorganism growth or toxin formation.

4     Sec. \_\_\_\_ . Section 137D.2, Code 2022, is amended to read as  
5 follows:

6     **137D.2 Licenses and inspections.**

7     1. A person shall not open or operate a home ~~bakery food~~  
8 processing establishment until a license has been obtained from  
9 the department ~~of inspections and appeals~~. The department  
10 shall collect a fee of fifty dollars for a license. After  
11 collection, the fees shall be deposited in ~~the general fund of~~  
12 a special fund in the state treasury. Moneys in the fund are  
13 appropriated to the department for the administration of this  
14 chapter. A license shall expire one year from date of issue.  
15 A license is renewable.

16     2. A person shall not sell or distribute from a home  
17 ~~bakery food processing establishment~~ if the home ~~bakery food~~  
18 processing establishment is unlicensed, the license of the  
19 home ~~bakery food processing establishment~~ is suspended, or  
20 the food fails to meet standards adopted for such food by the  
21 department.

22     3. An application for a license under ~~this chapter~~ shall be  
23 made upon a form furnished by the department and shall contain  
24 the items required by ~~it~~ the department according to rules  
25 adopted by the department.

26     4. The department shall regulate, license, and inspect  
27 home ~~bakeries according to standards adopted by rule~~ food  
28 processing establishments in a manner that is consistent with  
29 this chapter.

30     5. The department shall provide for the periodic inspection  
31 of a home ~~bakery food processing establishment~~. The inspector  
32 may enter the home ~~bakery food processing establishment~~ at any  
33 reasonable hour to make the inspection. The department shall  
34 inspect only those areas related to preparing food for sale.

35     6. The department shall regulate and may inspect food

1 prepared at a home ~~bakery according to standards adopted~~  
2 ~~by rule~~ food processing establishment in a manner that is  
3 consistent with this chapter. The inspection may occur at any  
4 place where ~~the prepared food~~ a homemade food item is created,  
5 transported, or stored for sale or resale.

6 7. A home food processing establishment shall affix or label  
7 a homemade food item with all of the following information:

8 a. Information to identify the name of the home food  
9 processing establishment.

10 b. The common name of the food.

11 c. The ingredients of the homemade food item in descending  
12 order of predominance.

13 d. The net quantity of contents.

14 e. For refrigerated time/temperature control for safety  
15 foods, an expiration date based on food safety.

16 f. The following statement: "This product was produced at  
17 a home food processing establishment." If the homemade food  
18 item contains one or more major food allergens, an additional  
19 allergen statement must be included on the label identifying  
20 each major allergen contained in the food by the common name of  
21 the allergen.

22 8. The department may adopt rules under chapter 17A to  
23 administer this chapter.

24 Sec. \_\_\_\_ . Section 137D.3, Code 2022, is amended to read as  
25 follows:

26 **137D.3 Penalty.**

27 A person who violates a provision of **this chapter**, including  
28 a standard adopted by departmental rule, relating to home  
29 ~~bakeries~~ food processing establishments or ~~prepared foods~~  
30 ~~created~~ homemade food items produced in a home ~~bakery~~, is  
31 ~~guilty of a simple misdemeanor~~ food processing establishment  
32 shall be subject to a civil penalty in the amount of one  
33 hundred dollars per violation, to be collected by the  
34 department. Moneys collected from civil penalties shall be  
35 deposited in the special fund referred to in section 137D.2.

1 Each day that the violation continues constitutes a separate  
2 offense violation.

3 Sec. \_\_\_\_\_. Section 137D.4, Code 2022, is amended to read as  
4 follows:

5 **137D.4 Injunction.**

6 A person operating a home bakery food processing  
7 establishment or selling prepared foods homemade food items  
8 created at a home bakery food processing establishment in  
9 violation of a provision of this chapter may be restrained  
10 by injunction from further operating that home bakery food  
11 processing establishment. If an imminent health hazard exists,  
12 the home bakery food processing establishment must cease  
13 operation and notify the department. Operation shall not be  
14 resumed until authorized by the department.

15 Sec. \_\_\_\_\_. Section 137D.6, Code 2022, is amended to read as  
16 follows:

17 **137D.6 Conflicts with state building code.**

18 Provisions of this chapter, including standards for home  
19 bakeries food processing establishments adopted by the  
20 department, in conflict with the state building code, as  
21 adopted pursuant to section 103A.7, shall not apply where the  
22 state building code has been adopted or when the state building  
23 code applies throughout the state.

24 Sec. \_\_\_\_\_. Section 137D.8, Code 2022, is amended to read as  
25 follows:

26 **137D.8 Suspension or revocation of licenses.**

27 The department may suspend or revoke a license issued to a  
28 person under this chapter if any of the following occurs:

29 1. The person's home bakery food processing establishment  
30 does not conform to a provision of this chapter or a rule  
31 adopted pursuant to this chapter.

32 2. The person violates a provision of this chapter or a rule  
33 adopted pursuant to this chapter.

34 3. The person conducts an activity constituting a criminal  
35 offense in the home bakery food processing establishment and is

1 convicted of a serious misdemeanor or a more serious offense  
2 as a result.

3 Sec. \_\_\_\_\_. Section 137F.1, Code 2022, is amended by adding  
4 the following new subsection:

5 NEW SUBSECTION. 2A. "*Cottage food*" means the production  
6 and sale of food produced at a private residence other than  
7 time/temperature control for safety food as provided in section  
8 137F.20 and food for resale that is not time/temperature  
9 control for safety food. "*Cottage food*" includes home-processed  
10 and home-canned pickles, vegetables, or fruits that have a  
11 finished equilibrium pH value of four and six-tenths or lower  
12 or a water activity value of eighty-five hundredths or less for  
13 which each batch has been measured by a pH meter or a water  
14 activity meter and each container that is sold or offered for  
15 sale contains the date the food was processed and canned.

16 "*Cottage food*" does not include any of the following:

17 a. Milk or milk products regulated under chapter 192.

18 b. Meat, meat food products, poultry, or poultry food  
19 products regulated under chapter 189A.

20 Sec. \_\_\_\_\_. Section 137F.1, subsection 8, paragraphs d, e, and  
21 f, Code 2022, are amended to read as follows:

22 d. Premises ~~which~~ that are a home ~~bakery pursuant to food~~  
23 processing establishment as defined in chapter 137D.

24 e. Premises where a person operates a farmers market, if  
25 unpackaged time/temperature control for safety foods are not  
26 sold or distributed from the premises.

27 f. Premises of a residence in which food ~~that is not~~  
28 ~~a time/temperature control for safety food is sold for~~  
29 ~~consumption off the premises to a consumer customer, if the~~  
30 ~~food is labeled to identify the name and address of the person~~  
31 ~~preparing the food and the common name of the food~~ is produced  
32 pursuant to section 137F.20.

33 Sec. \_\_\_\_\_. NEW SECTION. 137F.20 Cottage food —  
34 requirements.

35 1. Cottage food is exempt from all licensing, permitting,

1 inspection, packaging, and labeling laws of the state if the  
2 food is sold and delivered by the producer directly to the  
3 consumer, or delivered by mail or an agent of the producer such  
4 as an employee. A producer may sell food to the consumer in  
5 person, remotely, by telephone, by internet, or by an agent of  
6 the producer.

7 2. Cottage food sold pursuant to this section shall be  
8 affixed or labeled with all of the following information:

9 a. Information to identify the name and address, phone  
10 number, or electronic mail address of the person preparing the  
11 food.

12 b. The common name of the food.

13 c. The ingredients of the cottage food in descending order  
14 of predominance.

15 d. The following statement: "This product was produced  
16 at a residential property that is exempt from state licensing  
17 and inspection." If the cottage food contains one or more  
18 major food allergens, an additional allergen statement must be  
19 included on the label identifying each major allergen contained  
20 in the food by the common name of the allergen.

21 e. If the food is home-processed and home-canned pickles,  
22 vegetables, or fruits permitted under this section, the date  
23 that the food was processed and canned.

24 3. Compliance with the cottage food exemption provided in  
25 this section does not represent compliance with federal law.

26 Sec. \_\_\_\_\_. Section 210.23, Code 2022, is amended to read as  
27 follows:

28 **210.23 Exception.**

29 Any person engaged in operating a home baking food  
30 processing establishment is exempt from the provisions of  
31 sections 210.19 through 210.22.>

32 2. Title page, lines 1 and 2, by striking <businesses by  
33 counties and cities.> and inserting <businesses, including food  
34 establishments and home food processing establishments, and  
35 providing civil penalties.>

1 3. By renumbering as necessary.

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WHEELER of Sioux

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WILLS of Dickinson

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THOMPSON of Greene

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SMITH of Black Hawk